

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

DARRELL EUGENE BROWN,

Plaintiff

vs.

Officers WILLIAMS and WELLS,

Defendants

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

NO. 5:12-cv-199 (MTT)

**ORDER**

---

Plaintiff **DARRELL EUGENE BROWN** initiated this action by filing a civil rights lawsuit in the Superior Court of Baldwin County. After Defendant Officer Williams removed the action to this Court pursuant to 28 U.S.C. §§ 1331 and 1441 (Doc. 1), this Court dismissed the action without prejudice (Doc. 4). Presently before the Court is Plaintiff's "Request for Remand to the State Superior Court of Baldwin County" (Doc. 6). In his motion, Plaintiff objects to the removal and argues that his case should be remanded to state court. According to Plaintiff, his complaint being filed on a state court form, not a 42 U.S.C. § 1983 form, mandates that his case be heard in state court.

Under the federal removal statute, "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C.

§ 1441(a). Federal courts have original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States. 28 U.S.C. § 1331.

In his complaint filed in the Superior Court of Baldwin County, Plaintiff stated that he sued the Defendants based upon “violation[s] of the Eighth and Fourteenth Amendments United States Constitution” (Doc. 1-1, p.7). There is no indication in his complaint that Plaintiff wished to bring state law claims.

Whether removal is proper must be determined based on the complaint as of the time of removal. *Pullman Co. v. Jenkins*, 305 U.S. 534, 537–38 (1939); *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 293 (1938). Because Plaintiff asserted only federal claims in his complaint, his request for remand is **DENIED**. Plaintiff is reminded that this Court dismissed his complaint without prejudice and thus that he is free to assert any state law claims he wishes to bring in a new lawsuit filed in state court.

**SO ORDERED**, this 20th day of June, 2012.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT